Stops and Detentions Audit

October 2019

Introduction

The Sustainment Plan that governs the Seattle Police Department's obligations with respect to demonstrating that it is maintaining full and effective compliance with the terms of the Consent Decree between the City of Seattle and the United States Department of Justice requires, in each of 2018 and 2019, the Department to issue a report documenting its audit and review of Consent Decree requirements relating to Stops and Detentions.   This report is separate from the Department's earlier-released outcome report, published on May 31, 2019, that provides fuller analysis as to all stops and detentions between January 1 and December 31, 2018.

This Report is Part II of the Seattle Police Department's audit focusing specifically on data surrounding police-civilian contacts that involve the stop and limited detention of an individual. Known as a *Terry* stop,[1] such contact is authorized under law and policy for purposes of investigating, based on an officer's reasonable suspicion, whether the individual is engaging, has engaged, or is about to engage in criminal activity. During the course of a *Terry* stop, an officer may develop probable cause to arrest a subject, but probable cause is not required to make the initial stop, nor does a stop that is based on probable cause to arrest fall within the category of a *Terry* stop.

The Seattle Police Department's Part I report, filed with the Court on March 7, 2019, focused on Terry stops occurring between January 1 and June 30, 2018. In its first report, detectives from SPD's Audit, Policy, and Research Section (APRS) conducted a review of approximately one-third of all contacts reported as Terry stops during the period. Based on a methodology agreed to between the City, SPD, the Monitoring Team, and DOJ, detectives followed an audit instrument originally developed by the Monitoring Team during its work towards its Tenth Systemic Assessment on Stops, Search, and Seizure. They sought to determine whether SPD officers adequately documented their investigatory stops and searches, and whether those stops were supported by reasonable suspicion and consistent with SPD policy, federal or state law. In that audit, SPD found that 77.6% of stops were confirmed as *Terry* stops. Of 1,084 stops identified as *Terry* stops, 93.5% of all cases adequately documented the basis to establish reasonable suspicion. Two hundred and twenty-eight (21%) of these 1,084 stops also involved a documented weapons frisk. Based on the four corners of the narrative reports provided, 38 of those cases (16.7%) lacked separate articulated reasonable suspicion for the frisk. As explained below, for the cases without adequate documentation in the four corners of the Terry Template, the basis

---

[1] In *Terry v. Ohio*, 392 U.S. 1 (1968), the United States Supreme Court held that such brief detentions are authorized under the Fourth Amendment when, under the totality of circumstances, an officer has reasonable suspicion to believe that criminal activity is afoot.

for the officer's reasonable suspicion may well have been documented in the GO report or captured in other parts of the investigative file, such as on the officer's body-worn video.

In this Part II Audit, SPD, for purposes of simplicity and consistency, replicated the methodology utilized in the Part I Audit, over a representative sample of cases for the second half of 2018 (July 1, 2018 - December 31, 2018). The SPD Audit, Policy, and Research Section conducted a review of 517 cases from the second half of the year. APRS reviewers answered the same series of questions posed in Part I of this report, following the audit instrument originally developed by the Monitoring Team during the course of its work towards its Tenth Systemic Assessment on Stops, Search, and Seizure and sought to determine whether SPD officers adequately documented the basis for investigatory stops and searches and whether those stops were supported by reasonable suspicion and consistent with SPD policy, federal or state law.

In this Part II Audit, SPD found:

- 69.32% of stops ($n = 357$) were confirmed as *Terry* stops
- 22.52% of those cases identified as *Terry* stops were actually probable cause detentions
- Of the 357 stops identified as *Terry* stops, officers adequately documented the reasonable, articulable suspicion in 96.08% of cases.
- Seventy-seven (21.57%) of these 357 stops also involved a documented weapons frisk. Only two, (2.6%) lacked separate articulated reasonable suspicion for the frisk.

Following the Part I Audit, SPD sought to confirm how reliable its raters were– in other words, did the raters consistently reach the same conclusions about the same set of facts? As a result, in this Part II Audit, SPD sought to validate the findings from the Part I Audit by assessing a reasonable person's ability to agree (interrater reliability) (1) that a Terry Stop occurred, and (2) whether the standard of Articulable, Reasonable Suspicion (ARS) for the stop and the frisk was met. SPD utilized a diverse cross-section of reviewers from outside of the Seattle Police Department who received uniform instruction and training on Terry stops. The reviewers were provided a sample of cases to review and answer a series of questions modeled after the Monitor's data collection instrument utilized in his Tenth Systemic Assessment. SPD's goal with this validation was to inquire whether the outcomes may be used to calculate future audit samples. SPD found:

- 77.63% of all reports rated were confirmed as Terry Stops, a difference of just .07% when compared with the analysis done in Part I of this report
- 94.24% of all reports contained sufficient reasonable, articulable suspicion for the stop, a difference of just .79% when compared with the analysis done in Part I of this report

In addition to these quantitative findings, this Audit Report provides updates as to the Department's continued training on stops and detentions.

One preliminary point should be emphasized. Whether a Constitutional seizure has occurred, and whether the officer has reasonable suspicion for the stop, is an inherently complex determination, based on the totality of the circumstances available to the officer at the time of the stop, and dependent on both the content of the information available and the quality of that information. No bright-line rule can be applied. Whether the facts and circumstances give rise to reasonable suspicion in a given case is reviewed under a "reasonable officer" standard, guided by sets of principles and exceptions that continue to be driven by case law. Because the "reasonable officer" standard is one on which reasonable minds can, and often do, differ, it would be unusual to find, consistently, complete unanimity of opinion among reviewers.

This audit is intended to root out whether, systemically, officers are meeting policy expectations with respect to both the quality and the documentation of *Terry* stops and detentions. All reviewers were instructed to restrict their assessment to the "four corners" of a report template, rather than the totality of the case file that would be before a court for constitutional determination (including all reports, video footage, etc.). These audits are *not* intended to be the Department's determination as to whether each stop or frisk, individually, would withstand a Constitutional challenge.

Consent Decree Requirements

The Consent Decree contains five paragraphs setting forth specific obligations of SPD relating to Stops and Detentions, as follows:

> 140.   SPD will revise, as necessary, the Social Contact, *Terry* Stop, & Arrest Policy, Section 6.220, to ensure that the definitions of Social Contact and Terry stops explicitly conform to constitutional requirements. Specifically, the policy will (1) define Social Contacts and non-custodial interviews as encounters that are voluntary and consensual; and (2) prohibit investigatory stops where the officer lacks reasonable suspicious that a person has been, is, or is about to be engaged in the commission of a crime.

> Note: **SPD met this requirement during Phase I of the Consent Decree.** *Original revisions to Manual Section 6.220, were approved by the Court on August 11, 2015 (dkt. 211). Subsequent revisions to this policy were approved on November 19, 2018 (dkt. 501). This Consent Decree requirement remains complete.*

> 141. SPD will continue to require that officers be able to specifically and clearly articulate reasonable suspicion when they conduct investigatory stops or detentions, or conduct field interviews for *Terry* stops.

142. SPD will provide all SPD patrol officers with in-service training on an annual basis, based on developments in applicable law and SPD policy, sufficient to address the following topics:

(a)   the importance of police-community contacts for effective policing and community relations and trust;

(b)   Fourth Amendment and related law; SPD policies, and requirements in this Agreement regarding investigatory stops and detentions;

(c)   First Amendment and related law in the context of the rights of individuals to verbally dispute officer conduct;

(d)   legal distinction between social contacts, non-custodial interviews, and investigatory *Terry* stops;

(e)   distinction between various police contacts according to the scope and level of police intrusion; and

(f)   the facts, circumstances, and best practices that should be considered in initiating, conducting, termination, and expanding an investigatory stop or detention, including when an individual is free to leave, and when an officer might identify him or herself during a contact.

143. Additionally, SPD will provide all officers with regular roll call trainings regarding social contacts, non-custodial interviews, and investigatory stops and detentions.

Note:

> *During Phase I of the Consent Decree, training plans that cover these topics were developed by SPD, reviewed by DOJ and the Monitoring Team, and approved by the Court. The Sustainment Plan does not call for any particular training updates, although the Department routinely reviews and updates training each year. The training presented on these topics follows training previously reviewed and approved.*

144. Consistent with SPD policies and procedures, absent exceptional circumstances, by the end of each shift, a supervisor will continue to obtain and review his/her supervisees' incident reports and any other reports that document the basis for investigatory stops and detentions to determine if they were supported by reasonable suspicion and consistent with SPD policy, federal, or state law; and determine if the officer requires review of agency policy, strategy, tactics, or training.

Audit Findings

Objective 1 – Articulating Reasonable Suspicion (Paragraphs 141 and 144)

Assess whether SPD officers are specifically and clearly documenting reasonable suspicion when they conduct investigatory stops or detentions, or conduct field interviews for Terry stops.

A. Methodology

Detectives within SPD's Audit, Policy, and Research Section were selected as inspectors to review cases from the second half of 2019, using an efficient sample (i.e., simple random type) calculated from characteristics identified by oversampling in Part I of this audit.

The source data for APRS's audit comprised a set of 517 randomly selected templates[2] (reports) of investigatory stops occurring between July 1, 2018 and December 31, 2018. These stops represent 11.5% of all stops (n = 4,512) reported during this period. The sample was calculated according to best practice guidance for sampling in social science research, obtained from *Practical Sampling*[3]. A simple random sample was calculated utilizing the key characteristic (p) of articulated reasonable suspicion (ARS) for the stop. The size of the sample was selected to efficiently represent the characteristics of the universe of cases (an exploratory oversample reported in year one, was used to define sample parameters [4]) how often SPD officers failed to adequately document reasonable suspicion for a stop.

Inspectors were provided a set of written instructions. They all reviewed Department policy prior to beginning the inspection. The inspectors were asked to conduct a "four corners" assessment of the quality of documentation contained within the *Terry* template, and after reading each template, respond to a series of questions administered using a web-based survey tool

---

[2] In 2015, the Seattle Police Department introduced a computerized template that allowed it to capture, as part of its Records Management System, fielded and narrative data around *Terry* stops, including the purpose of the stop and metrics that capture the officer's status (on duty or off duty, years of service), the date, time, and location of the stop, and the duration of the stop.

[3] See Henry, G. T. (1990). *Practical sampling* (Vol. 21). Sage.

[4] *"Exploratory research is generally conducted to provide an orientation or familiarization with the topic under study. It serves to enlighten the researcher about salient issues, helps focus future research on important variables, and generates hypotheses to be tested. Descriptive research is the core of many survey research projects where estimates of population characteristics, attributes, or attitudes are study objectives… Exploratory research is often a preliminary activity leading to a more rigorous descriptive or analytical study… Broad coverage is more important in many exploratory research projects than reducing error."* Henry (1990), p. 48.

constructed from the instrument used by the Monitoring Team in conducting its Tenth Systemic Assessment on Search and Seizure.

B. Audit Results – July to December 2018

In Part I of this audit, SPD reviewed *Terry* templates from January 1 – June 30, 2018. To ensure that SPD reviewed an entire year of *Terry* stops, SPD conducted an audit of its *Terry* templates from the second half of 2018, July 1 – December 31, 2018. During the Part I Audit, SPD utilized an oversampling of reports and reviewed approximately one-third of all reports for the first half of the year. In Part I, SPD acknowledged that a sampling of 33% of all cases was likely excessive and sought to determine what an efficient sample would be. In that Audit, SPD determined that an efficient sample for future reports would be 6.5%.

For this Part II Audit, SPD utilized its findings from Part I and drew an efficient sample of templates using the key characteristics identified in the oversampling during the Part I Audit. SPD extracted 517 of the 4,512 *Terry* templates completed during the second half of 2019, from its the legacy Records Management System, Versaterm.[5] Detectives from the APRS, Audit Squad conducted the same inspection used in Part I of this Audit. They reviewed the *Terry* templates and answered a series of questions about the completeness of the templates.

Was This a *Terry* Stop?

Of the 515 inspections that APRS completed, APRS detectives confirmed 69.32% of all cases as *Terry* stops as compared with 77.56% during Part I of this Audit. During this Part II Audit, APRS detectives identified 22.52% of all cases as *Probable Cause* (PC) detentions which is 7.5% higher than the findings in Part I of this Audit. Figure 1, below, shows the findings in this Audit (Part II) as compared with the Part I Audit.

---

[5] Two (2) of the sampled reports appeared to be duplicates, as they contained the same combination of report number, date and subject name, and they both involved an anonymous subject. These were removed from the analysis.

Figure 1: *Terry* Part I vs. *Terry* Part II


Part I Review

Part II Review
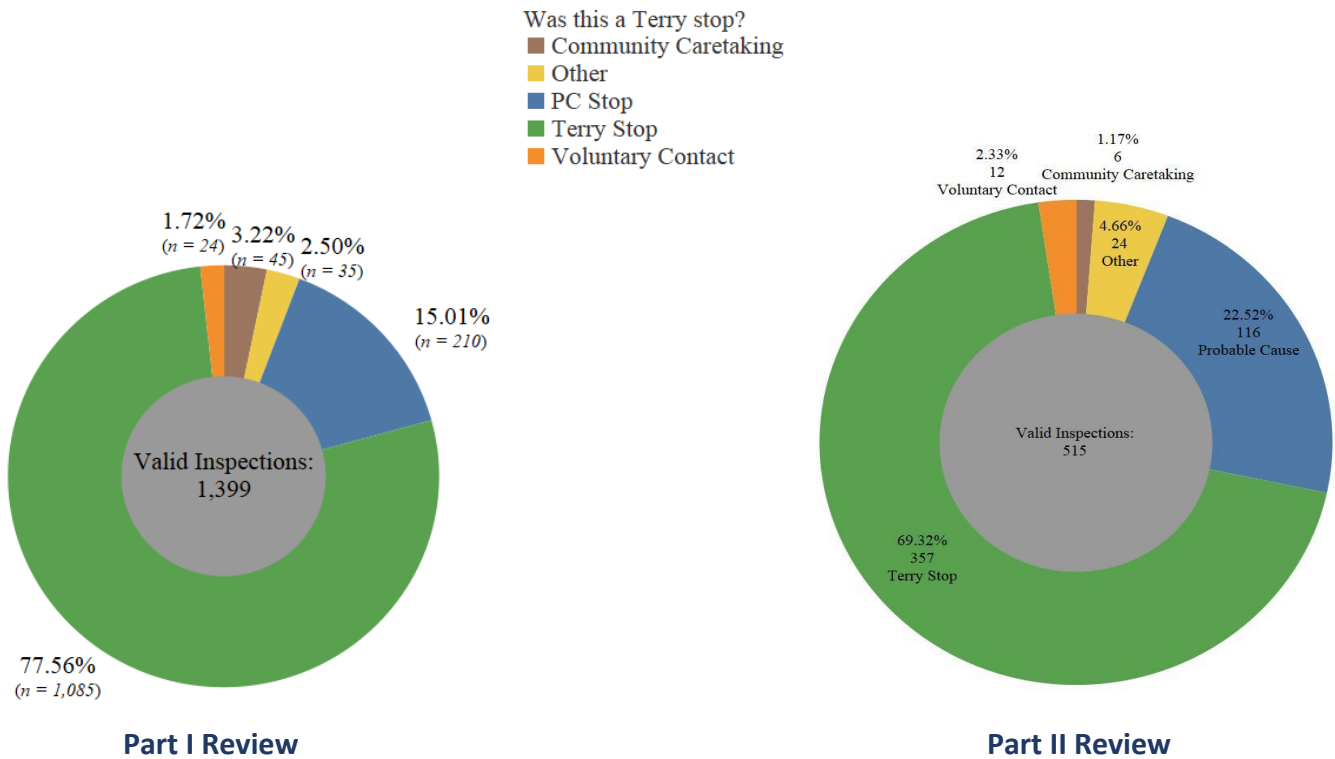
The remaining stop-types were within 1% to 2% of the findings from Part I, except *Other* stops, which were identified nearly twice as often as in Part I.

Type of Stop found a similar distribution between the Part I and Part II, with 76.31% (77.34% in Part I) identified as *Pedestrian Stop*s and 20.19% (20.44% in Part I) *Vehicle Stops*. The remaining eighteen (3.5%) could not be determined from the information available in the officers' *Terry* template.

Figure 2: Part I vs. Part II Type of Stop
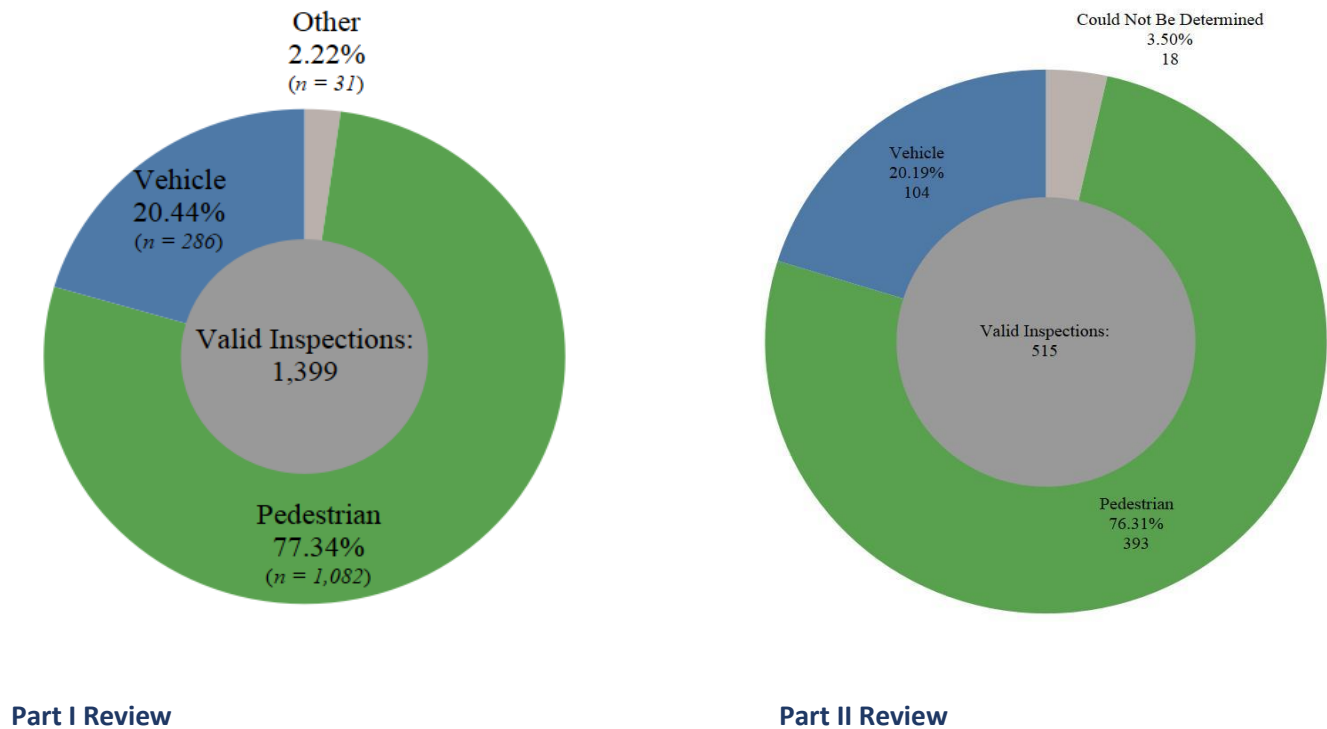
Part I Review   Part II Review

## Did Officers Sufficiently Document Reasonable Articulable Suspicion for the Stop?

APRS detectives inspected the 357 stops identified as *Terry* stops to determine whether officers adequately documented reasonable, articulable suspicion for the stop. APRS detectives found that 96.08% of all *Terry* templates adequately documented reasonable articulable suspicion, as compared with 93.45% of all *Terry* templates in Part I of this audit. When comparing the findings from the second half of the year to the first half of the year, the APRS detectives found only 3.36% of all *Terry* templates did not document reasonable, articulable suspicion during the Part II Audit, approximately half as many as compared with the Part I Audit – 3.36% were lacking reasonable, articulable suspicion in Part II compared with 6.55% in Part I. See Figure 3

Figure 3: Reasonable Articulable Suspicion

Part I Audit

Part II Audit
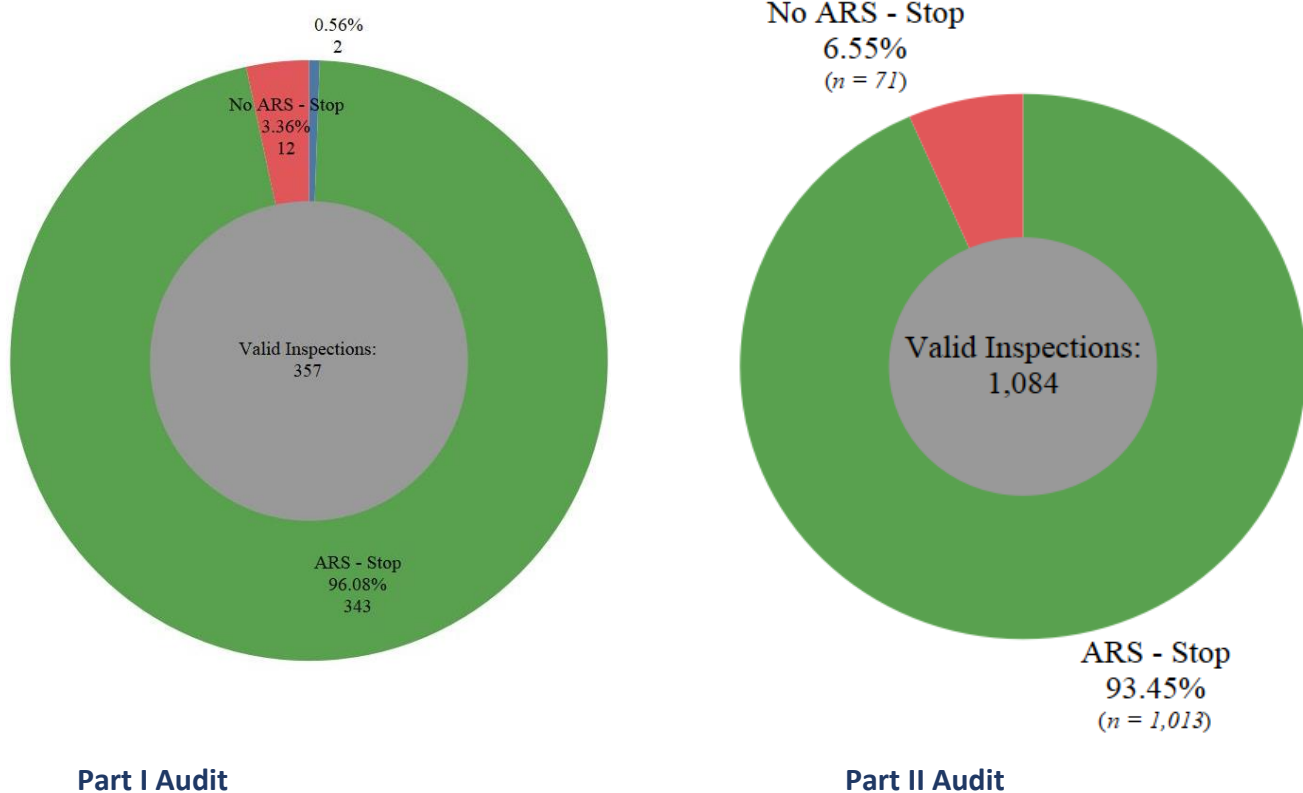
In the Part I Report, SPD reported on the 71 cases where inspectors did not find reasonable, articulable suspicion was adequately documented to justify the *Terry* stop. Those reasons ranged from "incomplete documentation" to "facts did not establish criminal activity that had been, was, or would soon be occurring." Also in the Part I Report, SPD reported the squads with the highest numbers of templates lacking reasonable, articulable suspicion for the *Terry* stop.   In this Part II report, inspectors found only 12 cases where the *Terry* templated lacked reasonable, articulable suspicion. Given the small number of cases, SPD did not want to summarize the data as the results could be misleading.

## Did A Frisk Occur and Did Officers Document Reasonable, Articulable Suspicion for the Frisk?

Of the 357 verified *Terry* stops in this Part II Audit, APRS detectives identified 21.57% (*n* =77) as including a search, or "frisk", of the subject. See Figure 4. During Part I of this Audit, inspectors identified 21% of the stops included a frisk of the subject.

Figure 4: Frisks in Part II
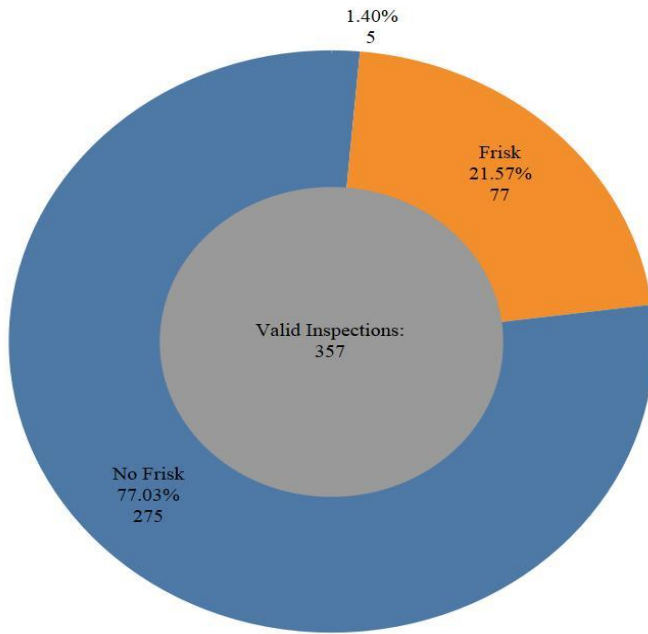
Of these 77 templates that identified a frisk, APRS detectives deemed that 96.1% (*n*=74) included sufficient documentation to determine reasonable suspicion for the frisk, an increase of 12.8% as compared with Part I of this Audit. SPD recognizes that this is a significant increase and will continue to monitor this data point in future audits. Inspectors were unable to determine, within the four corners of the template, reasonable suspicion for the frisk in the remaining 3.6% (*n*=3) of cases. *See* Figure 5.

In the Part I Report, SPD reported on the 38 cases where inspectors did not find reasonable, articulable suspicion was adequately documented to justify the frisk of a subject. The Part I report also noted the squads with the highest percentages of templates lacking reasonable, articulable suspicion for the frisk. In this Part II report, inspectors found only 3 cases where the *Terry* templated lacked reasonable, articulable suspicion for the frisk. Given the small number of cases, SPD did not want to summarize the data as the results could be misleading.

As found in the Part I Audit and in the Monitor's Tenth Assessment on Stops, Searches and Seizures, officers continue to adequately document reasonable, articulable suspicion for their *Terry* stops and frisks in
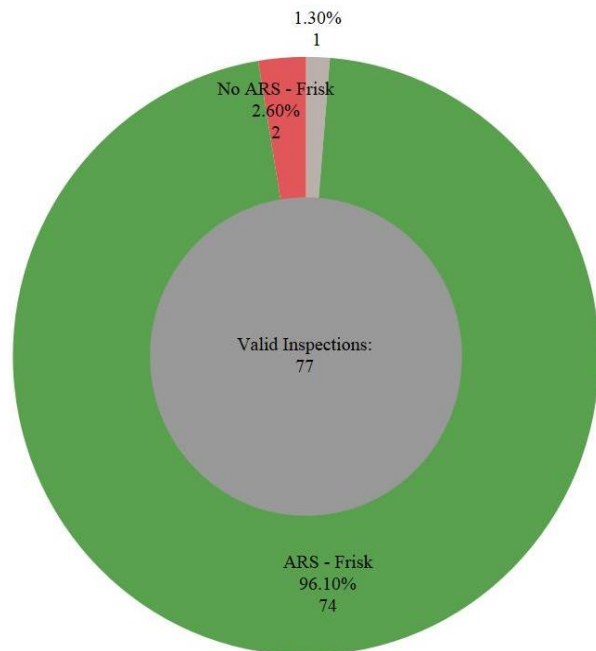
SPD's *Terry* template. SPD officers completed *Terry* templates for interactions which were not found to be *Terry* stops, a pattern which was also noted in the Part I Audit and the Monitor's Tenth Assessment. In SPD's Part I Audit, SPD identified this as an ongoing issue and clarified training and policies in early 2019 to minimize over-reporting of contacts that are not, in fact, *Terry* stops. The Seattle Police Department wants to ensure that its officers' time is used effectively; unnecessarily documenting a non-*Terry* interaction within a *Terry* template creates unnecessary work for officers. In its future Audits, SPD will continue to track whether officers are only documenting those stops which meet the definition of a *Terry* stop.

C. Supervision

By policy, supervisors are required to review their officers GOs and Street Checks that document Terry stops made during the shift to determine if they are supported by reasonable suspicion and are consistent with SPD policy and federal and state law. *See* Manual Section 6.220(11). The system by which *Terry* stops are entered, and reports processed, is such that *Terry* templates cannot enter the reporting database until the entirety of the "parent report" (GO, Street Check, or Follow Up) to which they are attached is approved by a supervisor. In other words, this requirement is "fixed" by way of the technical configuration.

For 12 (3.36%) of the stops and 3 (3.6%) of the frisks, the auditors identified a lack of articulated reasonable suspicion when reviewing the Terry template by itself. However, it is likely that even that small number of cases does not reflect the number of times a Terry stop lacked reasonable suspicion. It is possible that in at least some of these instances, the information substantiating reasonable suspicion was located in another source or document. This is because while this review was based (as was the Monitor's initial assessment) on a "four corners" review of the *Terry* template alone, in real life, supervisors have available to them, at the time they are reviewing the stop, additional material, including the parent report, its narrative, and video/audio footage of the incident. Accordingly, even when a Terry template appeared incomplete during this review, a supervisor may have been able to see additional justification for the stop or additional information through additional documents available to that supervisor. In fact, it is likely this was the case for at least some of the small number of incomplete templates identified in this review as some expressly referenced additional material in other locations. For this reason, it is also not possible to assess from this review whether supervisors were appropriately referring officers who failed to provide complete narratives to the Office for Police Accountability.

SPD has already take steps to address the issue of template completeness and supervisory review of template completeness. In May 2019, SPD implemented a new records management system, Mark43. This new system's user interface contains major improvements, most notably: (1) Terry reporting is more integrated into the system as a mainstream report type which will allow reports to be submitted and reviewed more easily and efficiently; and (2) the report cannot be submitted until officers have entered text into the narrative box requiring justification for the stop or frisk.

These results demonstrate that the Department remains in sustained compliance with Paragraph 144 requirements with respect to supervision. The numbers reported here show sustained systemic compliance on the part of the officers with respect to documenting reasonable suspicion for stops and frisks, and do not indicate a lack of supervision. A very small percentage of cases (3.36%) lacked documentation of reasonable suspicion. In addition, SPD's record management systems, both Versaterm and Mark43, are configured such that these cases could not be reported *without* supervisor review, and because of this system design, the data show that supervisors review and approve 100% of all Terry Templates.

Objective 2 – Training (Paragraphs 142 and 143)

Assess whether SPD is continuing to provide all Patrol officers with in-service training with respect to Terry stops on an annual basis, based on developments in applicable law and SPD policy.

As noted in other reports, SPD has implemented the ICAT (Integrating Communications, Assessment, and Tactics) model for learning. SPD is increasingly delivering training in different formats and decentralized under different "core" blocks of training, reinforcing skills learned across different situations. This is true of SPD's training on stops and detentions. In 2018, the annual training on stops and detentions was delivered as part of SPD's CIT Autism training, and, principles around *Terry* stops and detentions were interwoven into Tactical De-Escalation and Less Lethal Recertification training scenarios presented through in-person training. These trainings are required for all sworn employees. Concepts include officers' legal authority to be at the location of an incident and the lawful purpose for a contact. Where applicable, concepts related to de-escalation and the use of force are also reinforced.

The scenario-based training provides opportunities for officers to practice articulating the underlying reasons for a given contact or seizure and emphasizes the importance of officers' clear explanations of the circumstances of an incident, whether in writing their reports, screening arrests, or providing complete and convincing testimony in court. Concepts are delivered with a focus on experiential learning, accomplished via instructor-facilitated discussion, and utilizing informational slides and interactive exercises based on written or video presentation of realistic scenarios.

In addition, training specific to stops and detentions remained a core topic of SPD's Post-BLEA (Basic Law Enforcement Academy) training, a seven-week program required for all student officers following their graduation from the Washington State Criminal Justice Training Academy, prior to entering Field Training. SPD provided 11 sessions of Post-BLEA training in 2018, attended by 100% of student officers.

In Post-BLEA training, student officers attend courses that include both classroom instruction and scenario-based training. One block of instruction covers Foundational Principles, an eight-hour

block of instruction tailored for new officers that covers core concepts around law, policy, stops and detentions. This course provides student officers the opportunity to practice articulating the underlying reasons for a given contact or seizure. Concepts are delivered with a focus on experiential learning, accomplished via instructor-facilitated discussion utilizing informational slides as well as interactive exercises based on written or video presentation of realistic scenarios.

SPD training records confirm that of the 1,286 sworn personnel required to complete this training, 1,242 attended; of the 44 who did not complete this training, 38 were excused due to unavailability (e.g. military deployment, long-term medical leave, retirement). One hundred percent of student officers attended the required post-BLEA training.

During 2019, SPD is delivering eLearning modules covering search and seizure issues, stops, and detentions, which all sworn employees are required to complete. In addition, all sworn personnel must attend a four-hour CIT block of instruction including extensive discussion of case law, constitutional protections, and search and seizure authority. Also in 2019, SPD sergeants will conduct roll call training covering *Terry* stops.

In 2020, SPD's Education and Training Section will be offering two focused training modules addressing these issues, "Legal Updates" and "Search and Seizure." The Education and Training Section will also include instruction and discussion regarding stops, detentions, and search and seizure, where applicable, in many other portions of training curricula, including classroom training, scenarios, and eLearnings.

In sum, SPD continues to provide and require extensive and high-quality training on stops and detentions and nearly 100% of its officers have completed this training (with the exception of officers who are on long-term leave). SPD continues to meet and exceed the requirements of paragraphs 142 - 143 of the Consent Decree by teaching and reinforcing these concepts in multiple classes and shifting the scope of roll call training into more in-person scenario-based training.

Additional Research–Interrater Reliability[6]

As discussed above, during the Part I Audit, the Seattle Police Department (SPD) Audit Policy and Research Section (APRS) conducted an oversampled audit of the 4,341 *Terry* stops reported during the first half of 2018. SPD sought to determine what an efficient sample would be, both for this Part II Audit and for future audits, that would allow SPD to obtain a valid result without requiring SPD to review one third of its *Terry* templates each year. SPD recognized the initial audit could be vulnerable to rater bias. Without confirming that other, non-SPD, raters could

---

[6] SPD has written a technical report that describes in more detail our findings in this section. This report is available upon request.

agree what good or bad articulation of reasonable suspicion looked like, the calculation of an efficient sample using Part I findings remained speculative.

To validate its findings from the Part I report, SPD calculated and drew an new, efficient sample of *Terry* templates (*n = 514)* from the 4,341 *Terry* stops reported in the first half of 2018 to compare the findings of this study with the findings in Part I of this Audit.

SPD then solicited volunteer raters from a nationwide call to academic and practitioners' communities. SPD selected ten volunteers from three different sub-groups: three law enforcement officers from a large municipal police department in western Washington State, three Masters of Arts / Sciences in Criminal Justice (MACJ / MSCJ) students or recent graduates from two accredited institutions of higher learning, and four PhD students / degreed raters.

All raters were provided with an hour-long training on the 5th, 7th or 12th of August and were given until the 30th of August to complete the task.   The raters were provided two PDFs of the reports which contained a partially-crossed*,* random sampling of 300 of the 514 reports, in addition to 25 additional randomly selected cases.   They were also provided a link to a SurveyMonkey data entry form. They were asked to review the *Terry* templates and complete a survey about each template in SurveyMonkey, answering four questions: was this a *Terry* stop? Was there reasonable articulable suspicion for the stop? Was there a frisk? And was there reasonable articulable suspicion for the frisk?

In total, SPD received 2,978 complete surveys for the *Terry* stops, twenty-two (22) short of the expected 3,000. All raters completed between 295 and 300 surveys, with missing surveys observed across all rating sub-groups. Missing surveys were not believed to significantly influence the result and were treated as user / system missing in SPSS. SPD calculated a reliability analysis, across all 2,978 surveys and across 10 reviewers, to determine how frequently the reviewers agreed with one another on the four question. SPD observed agreement between 65% and 68%, except for Question 4 – reasonable, articulable suspicion for the frisk.   SPD observed 99% agreement on that question. Generally, agreement at 70% or higher is considered "acceptable" in most social science research situations.

SPD then observed that limiting the analysis to the latter 250 surveys submitted by each rater improved agreement. SPD also determined that one rater was dragging down the measures of agreement.   By limiting its analysis to latter 250 surveys and eliminating one rater improved agreement significantly. As seen in Table 1, the 9 raters agreed between 68.5% and 74.9% of the time on three of the four questions. Agreement on the fourth question was observed near unanimous at 98.6%. These calculations are reflected in Table 1.

Table 1

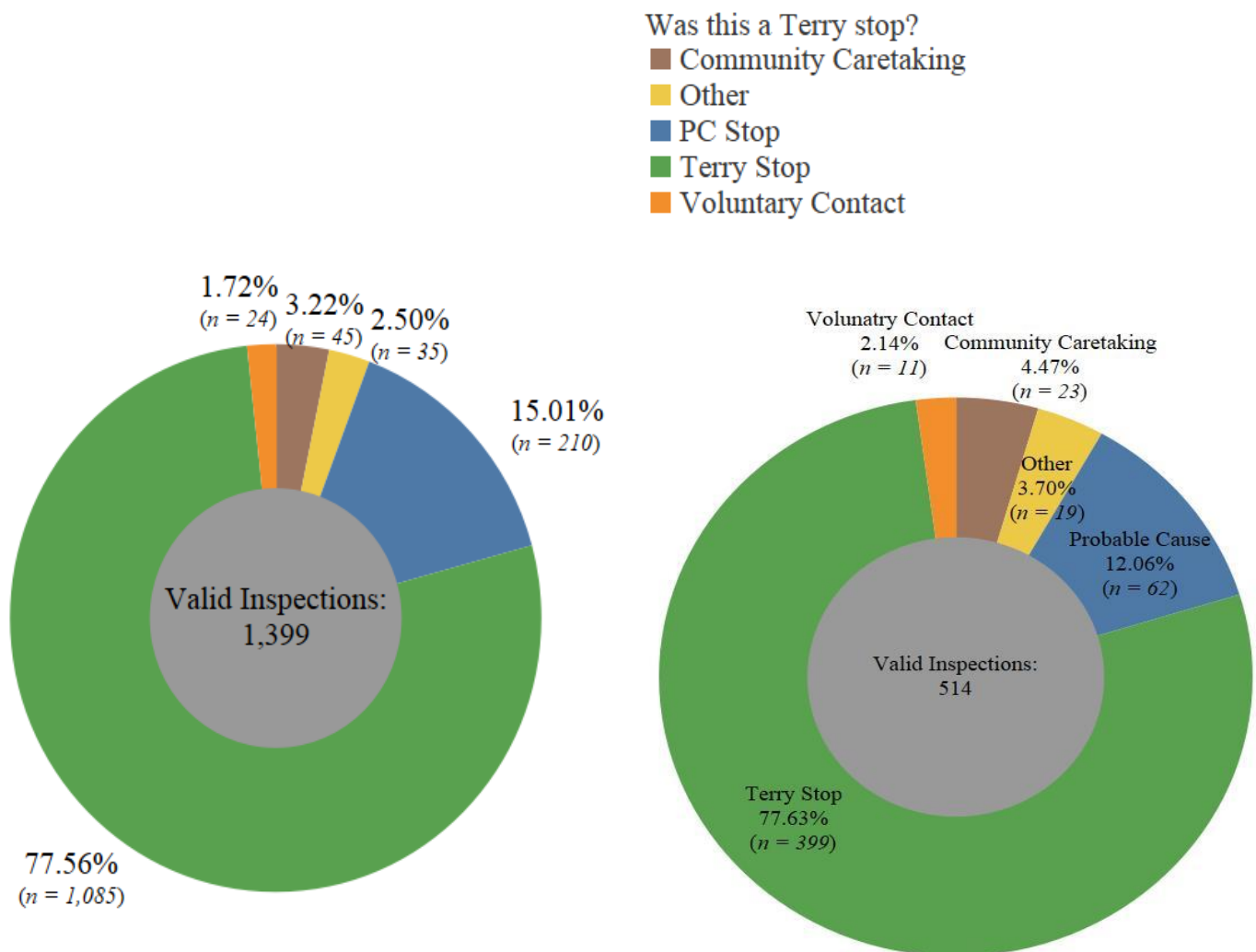| Question	Rate of Agreement	# of Raters
Was this a Terry Stop?	.720	9
Was there ARS for the stop?	.679	9
Was there a Frisk?	.685	9
Was there ARS for the Frisk?	.986	9

Not only did SPD find that consistency within the three subgroups of raters (law enforcement officers, (MACJ / MSCJ) students, and PhD students / degreed raters), SPD also found consistency between the three subgroups, confirming SPD's findings that raters who are adequately trained to identify a *Terry* stop can agree whether a report contains adequate articulation of reasonable suspicion. This validation agreement between raters means any one rater can be exchanged for another, and SPD would still find that they will generally agree with the other raters.

Was This a *Terry* Stop?

In the Part I Audit, as discussed earlier in this report, SPD APRS raters confirmed that 77.56% of all *Terry* templates were in fact *Terry* stops. The remaining 22.44% of oversampled reports were identified as a combination of *Probable Cause* (15.01%), *Community Caretaking* (3.22%), *Other* (2.50%) or *Social Contacts* (1.72%). (see Figure 1)

As SPD sought to confirm the reliability of those findings from the Part I Audit, it asked the 10 non-SPD raters, discussed in this section, to answer the same questions when reviewing their samples of cases. These raters showed similar results to the raters in Part I. These raters found that 77.63% of all reports rated were confirmed as Terry Stops, a difference of just .07%%. Slightly fewer *Probable Cause* detentions were identified by these raters, 12.06%. The remaining stop types remained within 1.5% difference. See Figure 6.

16

Figure 6– Oversample vs. Composite Sample

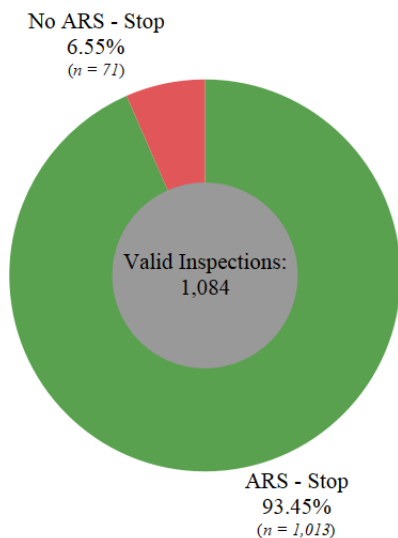## Did Officers Sufficiently Document Reasonable, Articulable Suspicion?

No ARS - Stop
6.55%
(n = 71)

Valid Inspections:
1,084

ARS - Stop
93.45%
(n = 1,013)

The ten raters were then asked whether officers sufficiently documented reasonable, articulable suspicion in the *Terry* template When comparing their findings with those reported in Part I, the results closely resemble each other. (see Figures 7 and 8)
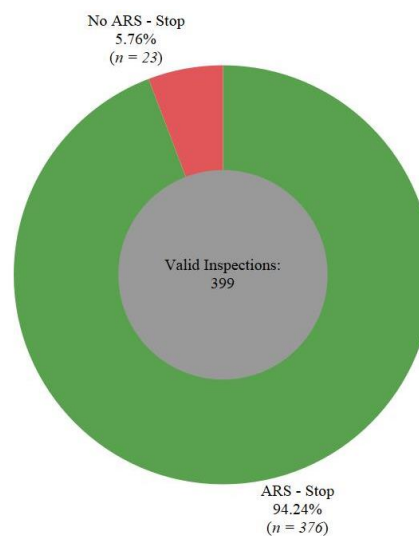
Figure 7 – Oversample

The ten raters found that 94.24% of all *Terry* templates contained sufficient reasonable articulable suspicion for the stop. In the Part I report, the raters found that 93.45% of *Terry* templates contained reasonable articulable suspicion for the stop. The difference between the two sets of raters was only.79%.

No ARS - Stop
5.76%
(n = 23)

Valid Inspections:
399

ARS - Stop
94.24%
(n = 376)

Figure 8 - Composite Sample

Did a Frisk Occur?

Of the 399 confirmed Terry Stops, the ten raters identified frisks in 28.07% of the *Terry* stops. One of these ratings contained "null" frisk information. SPD considers this to be a data quality error, but has retained the observation for internal consistency. The raters in Part I of this Audit identified frisks in 21% of all stops - , 7% fewer than the ten raters. (see Figure 9)
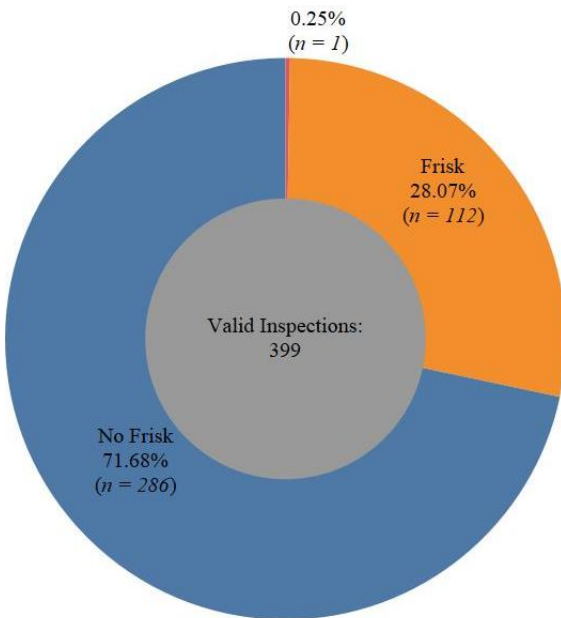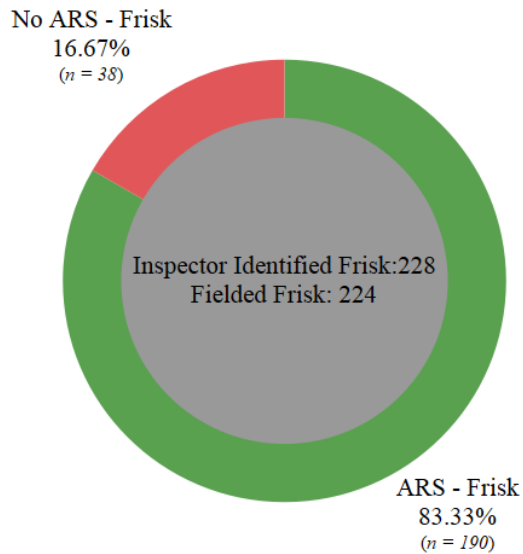

Figure 91 - Composite Sample

Was ARS for the frisk sufficiently documented?

No ARS - Frisk
16.67%
(*n = 38*)

Inspector Identified Frisk:228
Fielded Frisk: 224

ARS - Frisk
83.33%
(*n = 190*)

The largest difference between the findings of the ten raters and the Part I Audit raters was observed in the reasonable, articulable suspicion (ARS) for the frisk. (see Figures 10 and 11)

Figure 10 - Oversample

The ten raters found only 6.25% of templates lacked sufficient justification for the frisk. In the Part I Audit, raters found 16.67% without sufficient justification, a 10.42% difference.

Given the efficient sample underlying the composite group was calculated based on the key characteristic of ARS for the stop, some variation in secondary research question is expected.
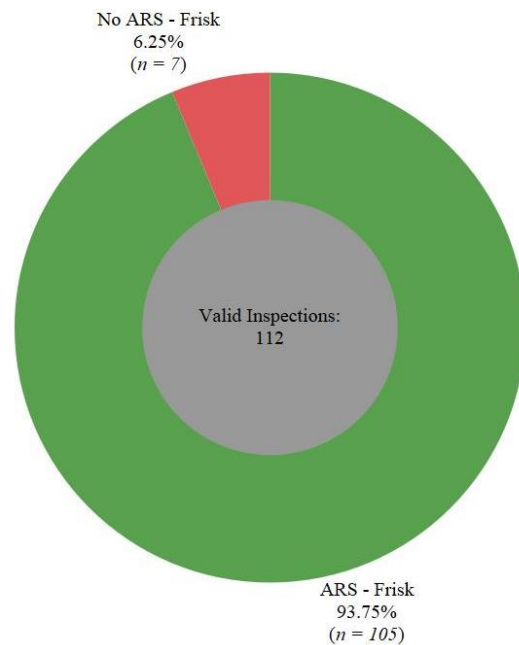
No ARS - Frisk
6.25%
(*n = 7*)

Valid Inspections:
112

ARS - Frisk
93.75%
(*n = 105*)

Figure 11 - Composite Sample

20

In Part I of this Audit, SPD noted that one purpose of the Audit was to provide descriptive characteristics of *Terry* stop data sufficient to calculate an efficient and sufficiently precise sample for future analyses. The interrator reliability findings in this Part II Audit will further that goal by assisting SPD with calculating an efficient and sufficiently precise sample for its future Stops and Detentions Audits. Those future audit procedures will err on the conservative side and rely more heavily on the results of the oversampling and composite sample. [7]

CONCLUSIONS AND NEXT STEPS

Consistent with its obligations under the Sustainment Plan, the purpose of this exploratory analysis was two-fold: first, to review a full year of *Terry* templates to ensure that the Department is continuing to demonstrate that, systemically, officers are specifically and clearly documenting reasonable suspicion when they conduct investigatory stops or detentions, conduct field interviews pursuant to *Terry* stops, and searches in the course of these stops; and (2) to ensure that the Department continues to provide training to its officers with respect to Terry stops on an annual basis, based on developments in applicable law and SPD policy**.**

The results of these analyses show that, in the vast majority of cases, SPD officers continue to specifically and clearly document their reasonable suspicion for a stop or frisk. These findings demonstrate that SPD has maintained compliance with the requirements of paragraphs 140-44 of the Consent Decree, which address stops and detentions. With the implementation of the new records management system, SPD anticipates that future audits provide even better insight into the basis for an officer's stop and their decision to frisk.

---

[7] On May 7th of 2019, the department implemented a New Records Management System with a specific report for *Terry* stops, the Field Contact Report. This platform utilizes contextual menus to focus the officers to articulate their reasonable suspicion for the stop, for the frisk and complete a full narrative. This report utilizes active error checking and requires officers to comply with reporting.

DOJ and MT Validation Section

In Phase I of the work of under the Consent Decree, DOJ and the Monitoring Team reviewed SPD's compliance with the requirements of the Consent Decree through 10 assessments, covering the roughly six topic areas of the Consent Decree: force investigation and reporting, crisis intervention, supervision, Early Intervention System ("EIS"), use of force, and stops and biased policing. By the end of 2017, the Monitoring Team and DOJ found the City of Seattle to be in compliance with each area. On that basis, the Court issued a finding of "full and effective compliance" with the requirements of the Consent Decree. By the terms of the Consent Decree, the City of Seattle is now required to demonstrate that it can sustain compliance with those requirements for a period of two years.[8]

During Phase II of the Consent Decree work, the City of Seattle has taken over the lead role in conducting assessments of the six core topic areas of the Consent Decree. By taking this lead role, SPD must demonstrate not only sustained compliance, but also a willingness and ability to critically self-assess their own progress in these areas, which are central to effective and constitutional policing.

This does not mean, however, that the work of DOJ and the Monitoring Team is done. In Phase II, DOJ and the Monitoring Team are reviewing the City's proposed methodologies for each audit and are conducting their own independent research and analysis or "look behind" of the City's review.

In January 2019, DOJ and the Monitoring Team conducted a validation of the City's Phase II, Part I audit of this topic and confirmed that the City demonstrated sustained compliance in this area. In the interest of continual improvement, DOJ and the Monitoring Team identified the following as areas for the City to focus on during Phase II, Part II of this review: (1) some of the *Terry* templates lacked a description of the subject who was stopped, and; (2) some *Terry* templates were incomplete on their face and required reference to additional documents in order to assess their constitutionality. Dkt. 547-1 at pp. 33-34.

During this follow-up assessment, the City demonstrated that, after the sample set examined in this review, it streamlined the *Terry* template process by implementing a new records management system (Mark43) with a specific report for *Terry* stops that will ensure that officers articulate the basis for their reasonable suspicion in a full narrative of the stop in the body of the *Terry* template.

---

[8] Although the Court found that the City has fallen partially out of full and effective compliance with the Consent Decree in its May 21, 2019 Order, the Court did not find that the City has fallen out of compliance in any area covered in the Phase II Sustainment Plan. See Dkt. 562 at 2. The Court indicated that it "remains hopeful that the City can complete these assessments and discharge these areas of the Consent Decree within the two-year sustainment period." *Id.* These assessments, and DOJ's and the Monitoring Team's review of these assessments, is therefore unaffected by the Court's May 21, 2019 Order.

For this audit, DOJ and the Monitoring Team consulted with SPD and ultimately approved the methodology used by SPD in conducting its own self-assessment. DOJ and the Monitoring Team also requested and received a randomly generated sample of stops templates for the time period July 1, 2018, 2018 to December 31, 2018. The sample set was comprised of 226 *Terry* stop templates. DOJ and the Monitoring Team, together with their subject matter experts, reviewed these stop templates for compliance with the terms of the Consent Decree relating to stops and detentions and SPD's policies regarding the same. Based on their Phase II, Part II reviews, DOJ and the Monitoring Team concluded as follows:

- The City of Seattle has demonstrated that it continues to sustain compliance with the stops and detentions requirements of the Consent Decree and SPD's policies, including requirements that SPD officers report all *Terry* stops through a *Terry* template and that supervisors will review such reports by the end of that shift, absent exceptional circumstances. DOJ and the Monitoring Team have concluded that officers are consistently satisfying these reporting requirements. Further, DOJ and the Monitoring Team have found that the number of *Terry* stops supported by documented, articulable, reasonable suspicion was consistent with SPD's findings.

- DOJ and the Monitoring Team recognize that officers appear to be using appropriate discretion in deciding when to effectuate an arrest after a *Terry* stop. Further, when officers determine that there are not grounds for additional detention, officers appear to be releasing the subject in a prompt manner.

In the interest of continuous improvement, DOJ and the Monitoring Team offer the following technical assistance to SPD based upon issues spotted during their respective reviews. Although none of these issues rose to the level of systemic non-compliance with the terms of the Consent Decree, DOJ and the Monitoring Team strongly encourage SPD, and the Inspector General who will take over the audit function for this topic area in the future, to give attention to these matters going forward:

- A small handful of *Terry* templates reviewed by DOJ and the Monitoring Team did not contain a sufficient narrative setting out why their *Terry* stop was supported by articulable reasonable suspicion; indeed, the basis for the officers' suspicion was not, in fact, articulated. These deficiencies in the narratives prevented reviewers from determining whether the officer's suspicion was reasonable. DOJ and the Monitoring Team encourage SPD to again emphasize the importance of this narrative portion of the *Terry* template through additional training and/or roll calls.